

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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7	UNITED STATES OF AMERICA,)	NO. CV-09-00335-JPH
8)	
9	Plaintiff,)	ORDER ADOPTING REPORT
10	vs.)	AND RECOMMENDATION
11	WILLIAM M. LARSEN,)	
12	Defendant.)	
13)	

BEFORE THE COURT for resolution is the Report and Recommendation entered on March 16, 2010 (**Ct. Rec. 12**), recommending that the stipulated motion to approve consent judgment (**Ct. Rec. 10**) be **granted**. On March 25, 2010, Mr. Larsen timely filed a letter construed as an objection (Ct. Rec. 13).

Defendant alleges he should not have to repay the student loan that is the subject of this litigation because the school he was attending abruptly shut down and did not reopen due to fraud and other problems (Ct. Rec. 13 at 1-2). Mr. Larsen argues at the very least he should not be responsible for repaying interest on the loan (Ct. Rec. 13 at 2). Plaintiff has not responded to Mr. Larsen's objections.

Mr. Larsen does not indicate why he objected after he signed the stipulation for entry of consent judgment on March 16, 2010 (Ct. Rec. 11). Unfortunately for Mr. Larsen, even if the Court assumes for the sake of argument his objection has been preserved and is

ORDER ADOPTING REPORT AND RECOMMENDATION

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3 factually correct, it does not provide a valid defense to his
4 obligation to this plaintiff. See *Crawford v. American Institute of*
5 *Professional Careers, Inc.*, 934 F.Supp. 335, 340-341 (D. Ar. 1996)
6 (borrower raises as a defense against loan payment school's alleged
7 misrepresentation but his state law claim is pre-empted by the
8 Higher Education Act of 1965 (HEA), citing 20 U.S.C.A. § 1087-
9 1(e) (2) (D) (West Supp. 1996); *Chae v. SLM Corporation*, 593 F.3d 936,
10 943, 945-946, 950 (9th Cir. 2010) (borrower's state claims of breach
11 of contract are pre-empted by the Federal Family Education Loan
12 Program of the HEA, now at 20 U.S.C. §§ 1001-1155).

13 The Court sympathizes with Mr. Larsen but his objection is
14 without legal merit. Having reviewed the report and recommendation,
15 the Court adopts the magistrate judge's report and recommendation in
16 its entirety.

17 **IT IS HEREBY ORDERED** that the Report and Recommendation (**Ct.**
18 **Rec. 12**) to grant the stipulated motion to approve entry of consent
19 judgment is **ADOPTED in its entirety**.

20 **IT IS SO ORDERED.** The District Court Executive is directed to
21 enter this Order and an Order of Judgment, forward copies to counsel
22 for plaintiff and to defendant, and close the file.

23 DATED this 15th day of April, 2010.

24 **s/Lonny R. Suko**

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26 LONNY R. SUKO
27 CHIEF UNITED STATES DISTRICT JUDGE
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